IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

CRP.No. 357 of 2005()

OPELE.208/2000 of ADDL. DISTRICT COURT, THODUPUZHA
.....

REVN. PETITIONER/RESPONDENTS:

THE KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY,
VYDYUTHI BHAVAN, THIRUVANANTHAPURAM.

BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB

RESPONDENT/PETITIONER:

GOPALAN, PULICKAMACKAL (H),
MUNIYARA, KONNATHADY VILLAGE,
IDUKKI DIST.

BY ADV. SRI.JOICE GEORGE
SRI.ALBERT JOSE

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 27/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 357 OF 2005

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Dated this the 27th day of November, 2007.

O R D E R

This revision petition is preferred against the award of the Addl. District Judge, Thodupuzha in OP(ELE)208/00 whereby the Court has ordered payment of additional compensation. A perusal of the award, especially paragraph 11, would show that the Court below has followed the Full Bench decision of this Court reported in ***Kumba Amma v. K.S.E.B. (2000(1) KLT 542).*** This Court fixed the annuity factor at 5% and it is on the basis of the same the present amount is arrived at. This matter was considered by the Apex Court in the decision reported in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1***). The Apex Court had set aside the orders of the Court and had remanded back the matter for fresh consideration and it also held that each case has to be considered on the facts and circumstances of that case. The Apex Court held as follows:

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as

> also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

2. So, in the light of the above said decision the matter requires reconsideration and for the said purpose additional evidence both oral and documentary may be necessary. Therefore, the order under challenge is set aside and the matter is remitted back to the Court below for consideration of the matter afresh after affording equal opportunities to the petitioner as well as respondent and then dispose of the matter in accordance with law as per the enunciated principles laid down in ***2007 (3) KLT page 1.***

The parties are directed to appear before the Court below on 3.1.2008.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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